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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our helper and friend, guide our Senators this day. Help them to walk the way of surrender to Your will, guided by Your wisdom. Refresh them with Your spirit to quicken their thinking and reinforce their judgment. Show them the spiritual foundations of our heritage that they may conserve and protect them. Draw them close to You and to one another in humility and service. And, Lord, spare them from arrogating to themselves the judgments which belong to You alone.

We pray in Your wonderful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, January 27, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of the Children's Health Insurance Program. At about 12:30 p.m. today, KIRSTEN GILLIBRAND will take the oath of office to become a Senator representing the State of New York. Following the swearing in of that Senator, the Senate will recess until 2:15 p.m. to allow for the weekly caucus luncheons to meet.

This week, we are going to legislate. There will be no morning business. We want to have all the time that is necessary to work on this important legislation dealing with children's health. I hope people will be ready to offer amendments. We have worked with staff on the Republican side of the aisle, and we have it set up that we have three amendments that will be laid down very quickly. By that time, we should be able to even schedule some votes for this afternoon.

I want to make sure everyone has the opportunity to offer any amendment they want to offer. What we are going to try to do is not have a bunch of them stacked up. I think that can sometimes be very troublesome. But we will work, as we proceed through the legislation, as to what amendments need to be pending. We are here to legislate. We hope that if people have concerns about this important legislation and they think it can be made better by taking something out or putting something in, that is what they should do. We want everyone, when they offer

their amendments, to have ample time to debate them, as we did with the first piece of legislation we dealt with, the Lilly Ledbetter legislation. After there has been ample time for debate, there can be motions to table. There are some Senators who may, for various reasons, agree to have up-or-down votes. We are here to legislate.

This morning is a little difficult because we have the Finance Committee meeting to complete their work on the recovery package. There are 200 amendments that have been filed in the committee, and they have to work their way through those amendments. That should take the better part of the day, at least many hours. It is estimated from 4 to 8 hours to complete the markup.

The Appropriations Committee markup is at 10:30 a.m. also. There are people from the Finance Committee who will be coming here on a rotating hour-by-hour basis so there will be floor coverage. So there is no reason not to be able to legislate and talk about this legislation in any way Senators feel is appropriate. Rollcall votes are expected to occur throughout the day. There will not be any votes before we complete our caucus luncheons.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### ORDER OF BUSINESS

Mr. McCONNELL. Madam President, are we now on the bill?

The ACTING PRESIDENT pro tempore. The bill has not yet been laid down.

Mr. McCONNELL. Can I suggest we go to the bill? I was going to lay down an amendment, consistent with the majority leader's suggestion that we get started.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall resume consideration of H.R. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

The ACTING PRESIDENT pro tempore. The majority leader.

AMENDMENT NO. 39

(Purpose: In the nature of a substitute)

Mr. REID. Madam President, there is an amendment at the desk that I wish the clerk to report.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 39.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The ACTING PRESIDENT pro tempore. The Republican leader.

AMENDMENT NO. 40 TO AMENDMENT NO. 39

(Purpose: In the nature of a substitute)

Mr. MCCONNELL. Madam President, I support the State Children's Health Insurance Program. I think virtually every Member of the Senate does. I voted to create the program and believe we need to responsibly reauthorize it.

In its original form, the State Children's Health Insurance Program was meant to provide insurance to children from families who earn too much to qualify for Medicaid but not enough to afford private insurance.

There is no doubt, as I indicated earlier, we all support providing insurance to low-income children. I am sure that is 100 Members of the Senate. In fact, this program originally passed on a broad bipartisan basis with 43 Republicans and 42 Democrats supporting it. It was enacted by a Republican Congress, signed by a Democratic President, and was a model of bipartisanship. Two of my colleagues, Senator GRASSLEY and Senator HATCH, reached across the aisle to craft a bipartisan compromise in the last Congress. Unfortunately, our Democratic colleagues have gone back on many of the prior agreements that were reached in creating that bill last year, making this issue more contentious than it ought to be and setting a troubling precedent for future discussions on health care reform.

The original purpose of the State Children's Health Insurance Program was to serve low-income, uninsured children. The bill we are being asked to consider sanctions a loophole that allows a few select States, such as New York, to provide insurance to children and families earning more than \$80,000 a year—\$80,000 a year—instead of insuring low-income children first. This is more than double the median household income in many States, including my State of Kentucky. It is grossly unfair that a family in Kentucky making \$40,000 must pay for the health insurance of a family making double that, especially if the Kentuckian cannot afford it for his own family.

The bill before the Senate is not limited to children either. It preserves loopholes that allow adults to enroll in a program that is intended for children.

Earlier estimates of similar legislation found that nearly half of the new children added by this bill already have private health insurance. Let me say that again. Earlier estimates of similar legislation found that nearly half of the new children added by this bill already have private health insurance. Republicans, on the other hand, believe we ought to target scarce resources to uninsured children, not those who already have coverage.

Republicans will offer amendments to fix the shortcomings of this bill and to provide a responsible alternative that will return SCHIP to its intended purpose: serving the kids in struggling families who need the help most. That is whom we ought to be helping.

Our bill, the Kids First Act, will provide funding increases to State SCHIP programs and help them find those eligible children who are not yet enrolled, and our Kids First idea is better because it closes the loophole that allows some States to extend their program to higher income families, even while they have thousands of lower income children who still are not covered. The Kids First Act truly puts kids first, eliminating nearly all adults from a program designed for children so that more children can be covered. Finally, by responsibly allocating scarce resources, our bill increases funding for SCHIP without raising new taxes. We believe Republicans have a better alternative.

Madam President, I now send that alternative to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 40 to amendment No. 39.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, we are now commencing debate on the Children's Health Insurance Program. I wish to speak to the amendment that has been offered by Senator MCCONNELL, as well as the pending legislation.

It is a grim reality in America that each day, 17,000 Americans are losing their jobs. Each day, 9,000 Americans are facing new mortgage foreclosure notices. Madam President, 17,000 lost jobs and 9,000 have lost homes. In the process, some 11,000 Americans are losing their health insurance every single day. So the issue that was before us when we created the Children's Health Insurance Program has become gravely worse, and we are finding more and more Americans who are being squeezed out of health insurance coverage—46 million uninsured Americans today, including 9 million children.

We decided to make children a priority in terms of providing health insurance. What the Federal Government said to the States was: We will come up with a program, but we will give you more than the normal Medicaid share; we are going to give you a share that is enhanced so that you will consider covering these uninsured children. In that situation, many States took advantage of it.

I might just say, Madam President, that I understand Senator GRASSLEY is in the Chamber and has a 10:30 a.m. Finance Committee meeting and I have a 10:30 a.m. Appropriations Committee meeting. Let me do my best to share the time so I can leave him with the remaining 10 minutes or so. Is that fair? I want to make sure Senator GRASSLEY has a chance because we have to go to important meetings.

The difficulty we face today, the reality is we wanted this program primarily to help families making up to 200 percent of what we call median family income. That would basically mean they would be making roughly up to \$42,000 a year. So if you are making \$42,000 or less, we want those kids covered.

Then we said to the States: You can go as high as 300 percent, and that would take it up to \$63,000. You would have to pay more for that out of State funds if you think that group of kids of families making between \$42,000 and \$63,000 need the help. And some States took advantage of it.

Then there were two exceptions, as I understand it. High cost of living States—New York and New Jersey—asked for permission to go even higher, up to \$77,000 to \$83,000 I think was the annual income. When many of the critics of this legislation, including the Republican leader, who just spoke, talk about what is wrong with it, they point to New York and New Jersey. I can tell you those are rare exceptions to the rule across America. By and large, this program is geared for people with incomes below \$42,000 a year, and in some